



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 7, 2012

Mr. David K. Walker
County Attorney
Open Records Division
Montgomery County
207 West Phillips Street, Suite 100
Conroe, Texas 77301

OR2012-17913

Dear Mr. Walker:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 470295 (ORR# 2012-5621).

The Montgomery County Sheriff's Department (the "sheriff's department") received a request for three categories of information related to the purchase and use of aerial drones by the sheriff's department, including specified responses to related requests for proposals. You state you have released the information related to the requests for proposals. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(b)(1) of the Government Code excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if . . . release of the internal record or notation would interfere with law enforcement or prosecution[.]" Gov't Code § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no writ). To demonstrate the applicability of this exception, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). This office has concluded section 552.108(b) excepts from public disclosure information relating to the security or operation of a law enforcement

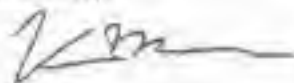
agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, ORDs 531 at 2-3 (Penal Code provisions, common law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You state the submitted information consists of internal records used by the sheriff's department and its staff during the course of conducting criminal investigations. You state that release of this information could jeopardize the lives and safety of police officers and the general public. You further state that release would put law enforcement at a disadvantage when trying to apprehend a fugitive or in trying to secure a potentially volatile and dangerous situation and would reveal law enforcement strategies and techniques. However, upon review of the submitted information, which consists of general policies and procedures related to use of aerial drones, we find you have failed to demonstrate how release of the submitted information would interfere with law enforcement and crime prevention, and the sheriff's department may not withhold any of the submitted information on this basis. As you raise no further exceptions to disclosure, the submitted information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 470295

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Tactical Air Unit Policy and Procedure

Purpose:

The Shadowhawk" UAS (Unmanned Aircraft System) will be used to assist in public safety and search and rescue operations and will be acquired and maintained by the Montgomery County Sheriff's Office. The UAS will be used to enhance and support tactical operations in the rural areas of Montgomery County or within the Region should a request for assistance be made and approval for operations be received by FAA. SWAT (Special Weapons and Tactics) and narcotics operations will utilize camera and FLIR systems to provide real time situational awareness of the target during high risk operations. The ability to provide this aerial view will tremendously enhance officer safety. The ability to use this aircraft to search large areas quickly using the attached technology equipment will improve the resolution of these operations.

Authorization:

The Shadowhawk UAS will not be deployed without the consent and knowledge of The Sheriff and/or Chief Deputy. The Shadowhawk will be operated within the guidelines/rules of the FAA, COA and policy/procedures set forth by the Montgomery County Sheriff's Office (MCSO). The aircraft will not operate in an area not covered by an approved COA (Certificate of Airworthiness), unless an Emergency COA has been obtained, or the FAA has given permission to operate with a specific area not covered by a prior approved COA.

Flight Crew:

PIC (Pilot in Command)

Crew Chief/Video Operator

Observer

All flight crew members will operate under the rules and guidelines established and published by the FAA pertaining to unmanned aircraft operations. Flight crew members will receive proper training specific to their assigned flight crew function and will stay proficient in that job function by participating in scheduled UAS training flight sessions.

PIC: Shall receive manufacturer training on the operation and basic maintenance/upkeep of all components used during the operation of the UAS. In addition to the rules and requirements specified by the FAA, the PIC shall perform a minimum of three (3) take offs and landings every ninety (90) days as part of his/her proficiency.

Crew Chief/Video Operator: Shall receive manufacturer training on the operation and basic maintenance/upkeep of all components used during the operation of the UAS. The operator shall stay proficient and understand the video system utilized on the UAS including recording and retrieving saved digital data.

Observer: Shall receive training from any UAS PIC or Crew Chief regarding flight characteristics of the UAS and the understanding the UAS is to stay in sight of the observer(s) or within the guidelines as published in the approved COA.

Training: UAS Flight Crew Members will participate in the minimum amount of training depicted by the MCSO. The minimal amount of UAS training will be two (2) days in a thirty (30) day period. The MCSO Administration or Unit Commander may increase or adjust the minimal required training if deemed necessary.

Maintenance:

Basic maintenance will be performed on the Shadowhawk UAS by qualified flight crew members that may include but not limited to; fluid change, spark plug change and cleaning, tightening of nuts and bolts, aircraft and payload cleaning and inspection and any other maintenance a competent flight crew member is able to perform. All other maintenance to the Shadowhawk UAS will be performed by the manufacturer as required and suggested by the manufacturer.

Fuel/Oil Recommendations:

The PIC and/or Crew Chief of the Shadowhawk UAS will be responsible for ensuring the aircraft has been fueled to its desired fuel weight with the proper fuel/oil mixture. The Shadowhawk will only be fueled with high octane gasoline mixed with oil approved and recommended by the manufacturer or the operating component at a mixture suggested by the manufacturer.

Pre-Flight Procedures:

Pre-flight procedures will be conducted prior to each flight and will be done in accordance to a check list prepared and approved by the manufacturer and the operating proponent. Any irregularities found during the pre-flight procedure will be noted in the proper log book(s) and it will be the decision of the PIC to determine if the irregularity will alter the flight or ground the aircraft. Pre-flight procedures include computer, ground station, cables/connectors, antennas and aircraft.

Launch Procedures:

Prior to UAS aircraft launch, the PIC is responsible for ensuring all items depicted on the pre-flight check list has been conducted and the aircraft/ground station is safe to operate. The PIC will communicate with the Crew Chief and Observer to confirm the area is visibly clear of any low flying air traffic and hazardous obstacles prior to lift off.

The PIC will be responsible for ensuring a NOTAM has been requested for the date and time period of operation and the NOTAM is in effect.

The PIC will be responsible for ensuring contact has been made with Houston TRACON via telephone or radio advising operations are about to commence in the COA where the NOTAM was filed.

The PIC will ensure communication with the proper ATC has been done, if applicable, and in accordance to the rules and guidelines set forth by the FAA.

The PIC will monitor all areas of the aircraft system during run up and be responsible for allowing launch or aborting the launch if any irregularities are detected.

After liftoff, all crew members shall perform the tasks according to their job assignment and communicate effectively and clearly while monitoring lift off and climb to desired mission altitude.

Post Launch:

All crew members shall perform the tasks according to their assigned job assignment and to communicate effectively and clearly during the duration of the assigned mission.

PIC: Monitor aircraft and ground station systems to ensure the aircraft is flying as designed and maintaining the attitude and altitude previously commanded to the system; as well as, maintaining communication with the Crew Chief and Observer.

Crew Chief/Video Operator: Operate and manipulate the video/payload while in communication with the PIC to ensure the mission objective is accomplished.

Observer: Monitor the flight characteristics of the aircraft while in communication with the PIC to ensure proper flight and that the aircraft remains clear of obstacles and low flying air traffic.

Aircraft Landing:

It will be the responsibility of the PIC to confirm the mission objective has been met prior to aircraft landing or deemed it necessary to land the aircraft due to any other reason.

The PIC will communicate with the Observer to confirm no obstacles are in the flight path of the aircraft and the return to base waypoint (RTB) prior to giving the aircraft a command to RTB.

Once the aircraft is at RTB, the PIC will perform a landing in accordance to the checklist that has been prepared by the manufacturer and the operating component. The Crew Chief and Observer will monitor the aircraft as it is landing to ensure a proper and safe landing. If the aircraft is not landing as desired or commanded, the Crew Chief and/or Observer will notify the PIC who will abort the landing accordingly.

It will be the responsibility of the PIC to ensure contact is made with the proper ATC to advise completion of the mission and no further need for the previously issued NOTAM.

Aircraft Recovery:

Upon completion of the mission and the aircraft has been landed and the engine killed, the Crew Chief and Observer will power down all aircraft systems on command of the PIC. Once all aircraft systems are powered off, the aircraft will be recovered from the launch area according to the checklist.

Aircraft/Ground Station Vehicle:

The vehicle is equipped and fitted to house and transport the Shadowhawk UAS. The vehicle is also equipped with the UAV ground station, computer, accessories, antennas, tools, usable fuel and other items needed to operate and prepare the aircraft for flight. The Ground Station/Aircraft Vehicle will be routinely inspected to ensure all items contained in the vehicle are in good condition and working order. The fuel containers will be checked to ensure ample fuel is available for flight operations.

Operational Security:

Maintaining security of the Shadowhawk UAS and the operations vehicle is a matter of great importance to the MCSO. During operations at a crime scene, operations call out or while operating in an Emergency COA, security will be provided and maintained by a member of the MCSO to ensure a sterile cockpit and to protect the integrity of the operation.